



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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S/003/052

August 9, 2000

CERTIFIED RETURN RECEIPT
Z 230 748 185

Jeff Sagers
Terra Stone
245 South Orange Street
Salt Lake City, Utah 84104

Re: Preliminary Decision to Deny Small Mine Permit Application, Terra Stone, South Pass Project, Box Elder County, Utah

Dear Mr. Sagers:

On July 10, 2000, we received a new Notice of Intention to Commence Small Mining Operations (SMO) and your check for the initial permit fee for your South Pass project, proposed to be located in Section 27, T13N, R16W. As you know, the Division has adopted regulations and interpretative policies to prevent a single operator from circumventing the requirement of filing for a large mine notice permit (LMO) by operating multiple small mines in the same area. For example, the Division's definition of "onsite" states that *"a series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division."* R647-1-106.

As we understand the facts, the existing Dove Creek Pass and proposed South Pass projects are located within two miles of each other, will be mining the same type of material, will be using the same equipment, and will be operated by corporate entities directly controlled by you. Under advise of our counsel and the Division's "Related and Neighboring Sites Policy", we find that these two operations must be considered one site for permitting purposes. ***As a result, we have made the preliminary decision to deny your SMO notice for the South Pass site.*** However, before we formally deny your application, we are required by statute, Title 40-8-16(3), to *provide the operator with an opportunity to request a hearing before the Board of Oil, Gas and Mining, to present evidence, cross-examine, and participate fully in the proceedings. Based on the record of the hearing, the Board will issue an order concerning the refusal, withholding, or withdrawal of your Small Mining Notice of Intention.*

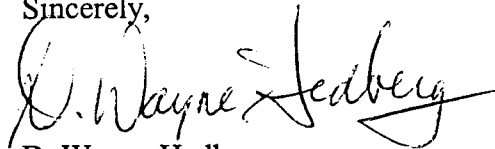
We will suspend taking further action on processing your application until you advise us of your preference in this matter. We request notification from you within 10 calendar days of your receipt of this letter. Please note that if no hearing is requested, our preliminary decision to

deny the SMO application will become final. If no hearing is requested, we will promptly return your South Pass permit application and your \$100.00 (check #0923) permit filing fee. If you choose to request a formal hearing on this matter, please contact Vicki Bailey, Administrative Secretary to the Board at (801) 538-5327, for appropriate scheduling and formatting of your request.

If you wish to expand the existing Dove Creek Pass project, a large mining notice (LMO) must be submitted and approved by the Division prior to expanding beyond the already approved five acre boundary of the Dove Creek Pass project. Due to past experience and present workloads, a large mining notice typically takes a *minimum* of six to nine months, or longer, to reach final approval. We have enclosed a LMO form for your use.

Please contact me at (801) 538-5286, or Lynn Kunzler of my staff at 538-5310, if you have further questions or concerns regarding our preliminary decision to deny this permit application.

Sincerely,



D. Wayne Hedberg
Permit Supervisor
Minerals Reclamation Program

tm

Enclosure: blank LMO form

cc: Kurt Seel, AAG

Lynn Kunzler, DOGM

Pam Grubaugh-Littig, DOGM

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